



Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7017 2400 0000 9122 7736

March 6, 2019

LIT INDUSTRIAL LP
C/O ENVIRONMENTAL ASSESSMENT SERVICES INC
ATTN: **Ex. 6 PP / Ex. 7(C)**
3501 JAMBOREE ROAD SUITE 230
NEWPORT BEACH CA 92660

RE: **Warning Letter**
2019-WL-4300
Former SoloPower Inc
EPA ID ORQ000030450
Multnomah County

Dear **Ex. 6 PP / Ex. 7(C)**:

On September 26 and November 20, 2018, and January 17, 2019, the Oregon Department of Environmental Quality (DEQ) conducted hazardous waste inspections at the Former SoloPower Inc. facility located at 6308 N. Marine Drive in Portland, Oregon to determine compliance with the applicable state and federal regulations. During the inspections, DEQ verified that the Former SoloPower Inc. facility operated as a large quantity generator (LQG) of hazardous waste, based on storage of more than 13,200 pounds of hazardous waste generated on site.

The purpose of this letter is to inform you of violations and concerns found during the compliance inspection so that you can correct them. Based on the results of this inspection, DEQ has concluded that the property owner, LIT Industrial, is responsible for the following violations of Oregon environmental law.

Class I violations are considered to be the most serious violations; Class III violations are the least serious. The hazardous waste and universal waste Code of Federal Regulations (CFR) referenced in this letter, as adopted in 340-100-0002, are through June 30, 2015, as modified by Oregon Administrative Rules (OAR) 340 Divisions 100 through 113. References to the 40 CFR Part 279 federal used oil regulations are as enacted through July 30, 2003, as modified by OAR 340 Division 111.

VIOLATIONS

Violation 1

LIT Industrial failed to meet the (LQG) storage requirements, storing hazardous waste beyond the time limits for a large quantity generator in violation of 40 CFR 262.34(a). This is a class III violation as identified in OAR 340-012-0068(3)(a).

DEQ issued LIT Industrial a one-time 30-day extension of the LQG 90-day storage requirement based on issues with facility access and delays in environmental contractor hire given a finding of hazardous conditions in two of the processing rooms. This one-time extension, the maximum allowable in rule, ended on January 4, 2019. The DEQ Hazardous Waste inspection on January 17, 2019, verified that hazardous waste from facility closure currently remained on site at that time in excess of the last deadline extension DEQ could provide.

Violation 2

LIT Industrial failed to label a container of hazardous waste with the words "hazardous waste" in violation of 40 CFR 262.34(a)(2). This is a class 2 violation as identified in OAR 340-012-0068(2)(b).

During DEQ's hazardous waste inspection on January 17, 2019, inspectors observed processed 275-gallon totes containing hazardous waste in the 90-day storage area not labeled with the words "hazardous waste." A roll of hazardous waste labels was identified by DEQ inspectors and available on an equipment rack in this room. The containers inspectors observed inside a tractor trailer prepared for shipment did bear complete hazardous waste labels in compliance with hazardous waste requirements. These labels also bore information relevant to DOT HAZMAT transportations requirements.

Violation 3

LIT Industrial failed to mark an accumulation start date on a container of hazardous waste, in violation of 40 CFR 262.34(a)(3). This is a class 2 violation as identified in OAR 340-012-0068(2)(a).

On January 17, 2019, DEQ inspectors observed a container holding hazardous waste stored in the 90-day accumulation area without an accumulation start date. This waste was generated during the waste characterization and disposal project elsewhere at the facility. Most containers in this area did bear accumulation start dates even if they were not labeled with the words "hazardous waste."

Violation 4

LIT Industrial failed to maintain on site and available for review hazardous waste manifests, land disposal restriction forms, and complete hazardous waste determination data, in violation of 40 CFR 262.40(a)&(c), 268.7(a)(8), and Oregon Administrative Rule (OAR) 340-102-0011(3). This is a class 3 violation as identified in OAR 340-012-0068(3)(d).

During the inspections and November 20, 2018, and January 17, 2019, DEQ inspectors confirmed that LIT Industrial, through its environmental contractors Tetra Tech and Clean Harbor Services, did not maintain all hazardous waste manifests, LDR forms, and hazardous waste sampling and HAZCAT records used to make hazardous waste determinations for wastes on site and available for review as required in rule.

CORRECTIVE ACTIONS are COMPLETED for VIOLATIONS 1 through 4

DEQ understands that LIT Industrial has arranged removal of all the hazardous waste from the site. Tetra Tech has provided DEQ copies of all hazardous waste manifests, Land Disposal Restriction forms, and waste determination records, and weekly container inspection logs through the last week of onsite storage.

Additional Concerns

It appeared that the environmental contractor(s) onsite personnel were knowledgeable in hazardous waste characterization, sampling, and DOT shipping requirements. They were conducting environmental cleanup, packaging, and site navigation in appropriate personal protective equipment (PPE) under a site-specific Health and Safety Plan. Some environmental contractor(s) staff referenced extensive training in and experience conducting hazardous materials removal actions. Operation of the 90-day hazardous waste storage area on January 17, 2019, led DEQ inspectors to ask clarifying questions of personnel's knowledge of RCRA-specific hazardous waste storage requirements. While demonstrating familiarity with aspects of the RCRA regulations, it was apparent that the personnel conducting RCRA work onsite were not adequately familiar with the requirements for operating 90-day storage areas. These observations have led to this recommendation for staff and contractor training specific to operation of hazardous waste small and large quantity generator facilities.

LIT Industrial is required to submit Annual Hazardous Waste Generator reports to DEQ for 2018, and 2019. The 2018 report is due on or before March 1, 2019. Please contact Mary Fritzmann, DEQ Hazardous Waste Reporting and Invoicing Coordinator, at **Ex. 6 PP / Ex. 7(C)** if you have questions regarding annual reporting, including use of the internet interface. LIT Industrial may wish to terminate its use of the EPA ID number associated with this facility. If that is the case, reports filed for both 2018 and 2019 are required before DEQ may inactivate this number.

Should LIT Industrial repeat any of these violations, DEQ may refer the violations to DEQ's Office of Compliance and Enforcement for formal enforcement action, including possible assessment of a civil penalty or a department order.

If you believe any of the facts in this warning letter are in error, you may provide information to me in writing at my email address or at the address on this letterhead. DEQ will consider new information you submit and take appropriate action.

DEQ greatly appreciates LIT Industrial for proceeding with, and at significant expense, responsibly disposing the 100,000 pounds of hazardous waste abandoned by its former tenant SoloPower Inc. This action abated a significant hazard created when SoloPower Inc. abandoned hazardous waste. DEQ also recognizes the difficulties LIT Industrial faced, with SoloPower's bankruptcy, in administration and access to the facility, and in addressing complications with contaminated rooms, wastewater treatment tank systems, a long plating line full of process chemistry. DEQ would further like to recognize the effort and expertise your vendors put into abating significant hazardous conditions, properly characterizing the hazardous waste, and shipping it offsite to appropriate and final disposal.

If you have any questions, please feel free to contact me by email at collins.jay@deq.state.or.us or by phone at **Ex. 6 PP / Ex. 7(C)**

Sincerely,



Jay Collins
Hazardous Waste Compliance Inspector

Enclosure: Inspection Report

Cc (with letter and report):

Ex. 6 PP / Ex. 7(C)

Nicholas Cisney, Permit Writer, Bureau of Environmental Services, City of Portland
Nicholas.Cisney@portlandoregon.gov

Ex. 6 PP / Ex. 7(C)

Mary Fritzmann, Coordinator, Hazardous Waste Reporting, DEQ

Zeb Bates, Hazardous Waste Inspector, Northwest Region, DEQ